S.B. Civil Writ Petition No.2322/05
Hanuman Sahai Raigar Vs. State & Ors.

Date of Order : 19/05/2006

Hon'ble Mr. Justice Ajay Rastogi

Mr.Dharmendra Jain for Mr.Manish Bhandari for petitioner
Mr.B.K. Sharma, Dy.G.A.

Instant petition has been filed against the award passed by the Presiding Officer, Shri Ram Singh Meena as Judge Labour Court, I, Jaipur, dt.1st March, 2005.

Petitioner was working on daily wages basis and his services were terminated by verbal order w.e.f. 17th January, 1994 which was questioned by filing writ petition before this court which came to be decided in the light of judgment rendered in Gopi Lal Teli Vs. State [1995 (2) WLC 1], on 21st August, 1995 with the observation that petitioner is free to avail alternative remedy within one month from the date of receipt of copy of the order in accordance with law. The certified copy of order of this court dt.21st August, 1995 was made available to the petitioner on 1st September, 1995 which is very much evident from document Ann.1 placed on record and on 26th September, 1995 the petitioner filed application before the conciliation officer raising the dispute with regard to his verbal termination and on failure report furnished, the appropriate government made a reference for adjudication before the Labour

Court, I, Jaipur vide its notification dt.19th December, 1996.

Petitioner and respondents herein both submitted their statement of claim and written statement and the matter was thrashed out on merits, but the learned Labour Court without adjudicating the dispute on merits passed no dispute Award and answered the reference on the premise that very application submitted by the petitioner was not within the time framework of 30 days as per the order of this court dt.21st August, 1995. Hence, no dispute Award was passed vide order impugned.

Counsel for petitioner submits that this court while deciding the writ petition specifically observed granting liberty to the petitioner to submit application within 30 days from the date of receipt of the order of this court and undisputedly, as per certified copy placed on record as Ann.1 which was made available to the petitioner on 1st September, 1995 within 30 days as observed by this court, on 26th September, 1995 undisputedly the petitioner filed application raising dispute before the concerned competent authority, as such very finding recorded by learned Labour Court is totally perverse and deserves to be set aside.

Counsel further submits that once a reference has been made by the appropriate government under the

provisions of the Act, 1947 and came for adjudication before the concerned competent court, filing of application within the framework as directed by this court was complied with in its true spirit and was not available before the Tribunal/Labour Court for adjudication and learned court was under an obligation to answer the reference as referred to by the appropriate government.

Counsel for respondents, on the other hand, supported the finding recorded by the Labour Court and submits that once the petitioner failed to submit application within time as fixed by this court, no error has been committed by the Labour Court in passing the impugned award.

I have considered the submission made by the counsel and perused the material on record.

This fact remain undisputed that certified copy of the order of this court was made available to the petitioner on 1st September, 1995 and he submitted application before the conciliation officer on 26th September, 1995 which was within time schedule fixed by this court granting liberty to the petitioner in filing application before the appropriate authority provided under the Act, 1947.

In my opinion, very finding recorded, so far as the fact as referred to above is concerned, by the Labour Court is totally perverse and deserves to be set aside.

Here, I would like to observe that the Presiding Officer was supposed to answer the reference after it has been referred by the appropriate government in terms of notification dt.19th December, 1996 and proceedings prior to were not available before him for adjudication rejecting application in such casual manner is highly deplorable.

Consequently, I allow the writ petition and set aside the award passed by this court dt.1st March, 2005 and the matter is remitted back to the concerned Labour Court for adjudication of the dispute on merits. However, it is further observed that since the services of the workman have been terminated way back in January, 1995, the Labour Court may expedite the matter and dispose of the same within a period of six months from the date of receipt of certified copy of this order. Both the parties are directed to present before the Labour Court on 5th June, 2006.

[Ajay Rastogi],J.

FRB